

HAROLD H. RUPPERT

IBLA 83-111

Decided November 30, 1982

Appeal from decision of Idaho State Office, Bureau of Land Management, declaring unpatented mining claims abandoned and void. I MC 40179 through I MC 40195 and I MC 42070 through I MC 42074.

Appeal dismissed.

1. Appeals -- Rules of Practice: Appeals: Dismissal -- Rules of Practice: Appeals: Timely Filing

Notice of appeal must be filed within 30 days after the person taking the appeal is served with the decision from which the appeal is taken. The timely filing of a notice of appeal is jurisdictional and failure to file the appeal within the time allowed requires dismissal of the appeal.

APPEARANCES: Harold H. Ruppert, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

The Idaho State Office, Bureau of Land Management (BLM), by decision of February 4, 1982, declared the unpatented Idaho Queen Nos. 1 and 2; Kela Nos. 1, 2 and 3; Anton B No. 1; Woodrat; Sunset No. 1; Bromide Queen Nos. 1, 2, and 3; Iron Dyke Nos. 1, 2, 3, 4, 6, and 7 lode mining claims, I MC 40179 through I MC 40195; and King Nos. 1, 2, 3, 4, and 5 lode mining claims, I MC 42070 through I MC 42074, abandoned and void because no proof of labor or notice of intention to hold the claims was filed with BLM prior to December 31, 1981, as required by section 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.2-1. The decision, served on Ray Haueter and Kenneth Haueter (record owners of the claims as filed with BLM) February 8, 1982, allowed the right of appeal to this Board for a period of 30 days thereafter.

Notice of appeal was filed by Harold H. Ruppert with BLM October 13, 1982, some 247 days after service of the decision. 1/

1/ The relationship between Harold H. Ruppert, appellant, and Roy Haueter and Kenneth Haueter, claimants of record to the mining claims at issue, is

[1] The regulations require that a notice of appeal be filed within 30 days after the person taking the appeal is served with the decision from which the appeal is taken. 43 CFR 4.411(a). This Board has held that the timely filing of a notice of appeal is required to establish the jurisdiction of the Board to review the decision below and that the failure to file the appeal within the time allowed mandates the dismissal of the appeal. Ray Mallory, 68 IBLA 189 (1982); Nequoia Association, 60 IBLA 386 (1981); Galen B. Brazington, 59 IBLA 255 (1981); Reg Whitson, 55 IBLA 5 (1981); Ilean Landis, 49 IBLA 59 (1980); Lavonne E. Grewell, 23 IBLA 190 (1976); see Browder v. Director Ill. Dept. of Corrections, 434 U.S. 257, 264 (1978); Pressentin v. Seaton, 284 F.2d 195, 199 (D.C. Cir. (1960)). Although this Board is generally reluctant to take any action which would preclude review of appeals on the merits, the purpose of the rule is to establish a definite time when administrative proceedings regarding a claim are at an end, in order to protect other parties to the proceedings and the public interest, and strict adherence to the rule is required. See Browder v. Director, Ill. Dept. of Corrections, *supra* at 264.

Since no notice of appeal of the February 4, 1982, decision of BLM was filed within the 30-day period allowed by regulation for such appeal, the BLM decision became final, the unpatented claims named above are considered abandoned and void, and this proceeding must be dismissed.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal of Harold H. Ruppert is dismissed.

Douglas E. Henriques
Administrative Judge

We concur:

C. Randall Grant, Jr.
Administrative Judge

Wm. Philip Horton
Administrative Judge
Alternate Member

fn. 1 (continued)
not explained in the case file. Neither the standing of Ruppert to appeal, nor his authority to represent the record owners of the claims before this Board was established. See 43 CFR 1.3.